

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ CHICAS, ALONSO
VILLATORO, MISAIEL ALEXANDER MARTINEZ
CASTRO, ANGEL MARTINEZ, EDWIN ULLOA
MOREIRA and MATEO UMANA individually and on
behalf of all others similarly situated,

Plaintiffs,

-against-

KELCO CONSTRUCTION, INC., KELCO
LANDSCAPING, INC., E.L.M. GENERAL
CONSTRUCTION CORP. D/B/A KELLY'S CREW,
JOHN KELLY and JOSEPH PROVENZANO,

Defendants.

Case No. 1:21-CV-09014
(PAE)(SDA)

**DECLARATION OF CARLOS SOARES IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR
CONDITIONAL CERTIFICATION PURSUANT TO 29 U.S.C. § 216(b)**

I, Carlos Soares, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion for Conditional Certification pursuant to 29 U.S.C. § 216(b). I am personally familiar with the facts set forth below and submit this declaration based on my personal knowledge.
2. I am a resident of Woodbridge, New Jersey. I currently work for Kelco Construction as a supervisor. I have been working for Kelco Construction as a supervisor since approximately July 2019.
3. My duties as a supervisor are to oversee the work of crew members at jobsites.
4. I am a union member of Local 1010 Laborers.
5. I regularly worked for Kelco Construction approximately five (5) days per week.
6. Kelco Construction did not require me to report to 25 Newton Place, Hauppauge,

New York (“Hauppauge facility”) or anywhere else by a specific time each morning prior to the start of the workday. I voluntarily visit the Hauppauge facility on an infrequent basis, approximately two (2) times per year. For example, for social gatherings or to search for any tools or materials I could potentially use for work.

7. I commute into New York City alone, currently to two (2) jobsites every workday from my residence in New Jersey using a company-owned vehicle. Kelco Construction pays for the gas and maintenance expenses of this company-owned vehicle.

8. I generally leave my residence at approximately 5:15 a.m. for work at a New York City jobsite and arrive at the jobsite by approximately 6:00 a.m.

9. After the end of the workday at the jobsite, I leave the jobsite at approximately 3:30 p.m. to arrive back at my New Jersey residence between 5:00 p.m. and 5:30 p.m.

10. I do not return to the Hauppauge facility at the end of the workday. I drive to my home directly after work.

11. I am paid an hourly rate of pay of \$61.00, which is guaranteed by Kelco Construction for forty hours per workweek.

12. My primary language is Portuguese. On January 25, 2023, Francisco Ferenczi, CCI verbally translated this declaration to me in Portuguese. I fully understand the contents of this declaration in my primary language.

13. This declaration was prepared by counsel for Defendants in the action based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for the Defendants that I should sign this declaration if I want to and if everything within it is true and correct to the best of my knowledge, information, and belief. I have been given a full opportunity to review this declaration carefully and freely and

make any corrections and additions of any kind.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: January 25, 2023



Carlos Soares